

AGENDA

**South Dakota One Call Notification Board
Enforcement Panel Conference Call
Location: Watertown Municipal Utilities
901 4th Avenue, SW
Watertown, South Dakota 57201
Tuesday, October 22, 2019 1PM CT (noon CT)**

A brief description of the Enforcement Panel process: This is a legal proceeding and no comments will be taken by any of the parties involved in the Complaints during this call. A probable cause determination will be made based only on the written documentation received from the parties in the complaints. All parties will be given the opportunity to request a hearing before the full South Dakota One Call Notification Board, if there is disagreement with the recommendation of the Panel. If a hearing is requested, each party must be represented by legal counsel at the hearing. If a hearing is not requested, the Enforcement Panel recommendation will be presented to the South Dakota One Call Board of Directors for acceptance at the next Board Meeting. A final Order will be mailed to each party after that Board Meeting. Please note, no payment is due until the final order is issued.

Factors to be considered in determining the amount of the penalty, if assessed shall be:

1. The amount of damage, degree of threat to public safety and the inconvenience caused.
2. The respondent's plan and procedures to insure future compliance with statutes and rules.
3. Any history of previous violations.
4. Other matters as justice requires.

49-7A-18. Penalties. Except as provided in § 49-7A-19 and in addition to all other penalties provided by law, any person who violates or who procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 **may be assessed a penalty of up to one thousand dollars for the first violation and up to five thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.**

49-7A-19. Penalties for intentional violations. In addition to all other penalties provided by law, any person who intentionally violates or who intentionally procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 **may be assessed a penalty of up to five thousand dollars for the first violation and up to ten thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.**

49-7A-20. Each violation as separate offense. **Each violation of any statute or rule of the Statewide One-Call Notification Board constitutes a separate offense. In the case of a continuing violation, each day that the violation continues constitutes a separate violation.**

The Enforcement Panel of the South Dakota One Call Notification Board will meet to consider the following South Dakota One Call Complaints:

OC19-044 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against John Green (Green) Oral, South Dakota for an incident occurring on August 29, 2019 at 3725 Hillview Road, Spearfish, South Dakota.

Deadline to Respond was September 23, 2019. Response was received September 23, 2019.
There is no previous history with Green.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Green violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC19-045 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against RCS Construction (RCS) Rapid City, South Dakota for an incident occurring on September 3, 2019 at 428 East Fairlane Drive, Rapid City, South Dakota.

Deadline to Respond was October 14, 2019. Response was received October 11, 2019.
There were previous complaints filed against RCS.

OC12-007 – RCS met the requirements and paid the assessed penalty.

OC13-029 – RCS met the requirements and paid the assessed penalty.

OC19-043 – The Board order is pending on this docket.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that RCS violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC19-046 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Heavy Constructors (Heavy) Rapid City, South Dakota for an incident occurring on September 7, 2019 at 0 Promise Road, Rapid City, South Dakota.

Deadline to Respond was October 14, 2019. Response was received on September 27, 2019.
There were previous complains filed against Heavy.

OC13-030 – All requirements were fulfilled, and the docket closed.

OC18-014 – All requirements were fulfilled and the docket closed.

OC18-019 – All requirements were fulfilled and the docket closed.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Heavy violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC19-047 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Simon (Simon) Rapid City, South Dakota for an incident occurring on September 7, 2019 at 0 St Louis and East Blvd, Rapid City, South Dakota.

Deadline to Respond was October 14, 2019. Response was received on September 26, 2019.
There is no previous history with Simon.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Simon violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC19-048 - In the Matter of the Complaint filed by Midco, Sioux Falls, South Dakota against Sod Busters and B Green (Sod) Sioux Falls, South Dakota for an incident occurring on various dates and various locations in Sioux Falls, South Dakota.

Deadline to Respond was October 14, 2019. Response was received on October 14, 2019.
There is no previous history with Sod.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Sod violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC19-049- In the Matter of the Complaint filed by Midco, Sioux Falls, South Dakota against Sod Busters and B Green (Sod) Sioux Falls, South Dakota for an incident occurring on various dates and various locations in Sioux Falls, South Dakota.

Deadline to Respond was October 14, 2019. Response was received on October 14, 2019.
There is no previous history with Sod.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Sod violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC19-050 - In the Matter of the Complaint filed by Excavating Specialists (Excavating) Rapid City, South Dakota against Montana Dakota Utilities (MDU) Rapid City, South Dakota for an incident occurring on September 4, 2019 at 171 West Pine Street, Spearfish, South Dakota.

Deadline to Respond was October 14, 2019. Response was received on September 26, 2019.
There is no previous history with MDU.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that MDU violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC19-051 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against RCS Construction (RCS) Rapid City, South Dakota for an incident occurring on September 9, 2019 at 2709 Willow Avenue, Rapid City, South Dakota.

Deadline to Respond was October 14, 2019. Response was received October 10, 2019.
There were previous complaints filed against RCS.

OC12-007 – RCS met the requirements and paid the assessed penalty.

OC13-029 – RCS met the requirements and paid the assessed penalty.

OC19-043 – The Board order is pending on this docket.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that RCS violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

Please note: This is a legal proceeding and only written information provided by the Complainants and the written response from the Defendants will be considered per SDCL 49-7A-25. No comments from the parties involved in the complaints will be taken during this call.

Note: Please call (605) 863-0951 at least one hour prior to the call for call-in instructions. We have limited ports available on the conference bridge, so if you do plan to call in, we ask that you conference in on one line.